IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 691 of 2000()

SC.54/1993 of ASSISTANT SESSIONS COURT, MANJERI
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REVN. PETITIONER: DEFACTO COMPLAINANT:

MURALI.V.,
S/O.VELAYUDHAN,
MANJERI.

BY ADV. SRI.P.K.ASHOKAN
SRI.RAJESH NAIR

RESPONDENTS: COMPLAINANT/ACCUSED:
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1. **STATE OF KERALA, REPRESENTED BY**
THE DEPUTY SUPERINTENDENT OF POLICE,
MALLAPARA.

2. **KOOLIYODAN ALIAS AYYAPPURAN KHALID,**
S/O.MUHAMMED, MANJERI AMSOM,
MULLAMPARA.

R2 BY ADV. SRI.K.A.JALEEL
SRI.C.ANILKUMAR (KALLESSERIL)
BY PUBLIC PROSECUTOR SRI. K.S.SANTHOSH KUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

J.B. Koshy, J.

Crl.R.P. No.691 of 2000

Dated this the 3rd day of December, 2007

Order

This revision application is filed by the defacto complainant against acquittal of the accused. The accused was charge-sheeted for offence punishable under sections 324, 326 and 307 of the Indian Penal Code on the allegation that on 15.3.1992 at about 10.15 a.m. at a place near the grocery shop at Mullampara, the accused, with the intention to cause the murder of CWs 1 and 2, beat over the head of CW2 with a stick and thus voluntarily caused grievous hurt to CW2 and also caused hurt to CW1 by beating with a stick. CWs 1 and 2 were examined as PWs 1 and 2. Their evidence is to the effect that on the previous day also B.J.P. workers and Muslim League workers assaulted each other and it was due to political enmity that accused caused hurt to them. According to the accused, case was foisted against them merely because they are B.J.P. sympathizers and they are innocent. They admitted that there is a counter case also. There were allegations against PWs 1 and 2 and the counter case was acquitted. PW4 is the elder sister of the mother of PW2. No independent witnesses were examined. Ext.P2 is the scene mahazar prepared for this case and for the counter

case. PWs 1 to 3 are B.J.P. workers. The court after analysing the evidence found that there was clash between the B.J.P. workers and Muslim league workers and both sides were injured. In both cases, origin of the incident and identity of the actual accused are not proved from the totality of the evidence. The incident occurred in 1992. One and a half decades are over. Unless the finding of acquittal is perverse, a revisional court cannot interfere even if another view is possible. This court will not interfere in the order of acquittal unless there is patent illegality resulting in failure of justice. Considering the facts and circumstances of the case, I am of the opinion that it is not a fit case for interference in the order of acquittal in revisional jurisdiction.

J.B.Koshy
Judge

vaa

J.B. KOSHY, J.

Crl.R.P. No.691/2000

Order

Dated:3rd December, 2007